

EXHIBIT D

1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRED LEE & ANN LEE,

Plaintiffs,

-against- Docket Number: 1:20-cv-03191

UNION MUTUAL FIRE INSURANCE COMPANY,

Defendant.

-----X

VIA ZOOM

April 27, 2021

10:00 a.m.

DEPOSITION of FRED S. LEE, in the
above-entitled action, held at the above time and
place, taken before Karen McConnell, a Notary
Public of the State of New York, pursuant to
Court Order and video stipulations between
Counsel.

2

APPEARANCES:

GREENBLATT & AGULNICK, P.C.

Attorneys for Plaintiff

55 Northern Boulevard -Suite 302

Great Neck New York 11021

BY: SCOTT AGULNICK, ESQUIRE

HURWITZ & FINE, P.C.

Attorneys for Defendant

575 Broad Hollow Road

Melville, New York 11747

BY: CHARLES ENGLERT, ESQUIRE

FILE NUMBER:

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN
(AMONG) COUNSEL FOR THE RESPECTIVE PARTIES
HEREIN, THAT FILING AND SEALING BE AND THE SAME
ARE HEREBY WAIVED.

IT IS FURTHER STIPULATED AND AGREED THAT ALL
OBJECTIONS, EXCEPT AS TO THE FORM OF THE QUESTION
SHALL BE RESERVED TO THE TIME OF THE TRIAL.

IT IS FURTHER STIPULATED AND AGREED THAT THE
WITHIN DEPOSITION MAYBE SWORN TO AND SIGNED
BEFORE ANY OFFICER AUTHORIZED TO ADMINISTER AN
OATH, WITH THE SAME FORCE AND AFFECT AS IF SIGNED
AND SWORN TO BEFORE THE COURT.

1 FRED S. LEE 4

2 F R E D S. L E E, having first been duly sworn

3 by a Notary Public of the State of New York, was

4 examined and testified as follows:

5 EXAMINATION CONDUCTED BY MR. ENGLERT:

6 Q Please state your name for the

7 record.

8 A Fred S. Lee.

9 Q What is your address?

10 A 45-54 193rd Street, Flushing, New

11 York 11358.

12 Q Good morning, Mr. Lee. My name is

13 Charles Englert. I am here on behalf of Union

14 Mutual Fire Insurance Company in reference to a

15 lawsuit that you commenced against them. The

16 lawsuit concerns an insurance claim for fire

17 damage, which occurred on March 2nd of 2020 at

18 39-11 27th Street, Long Island City, New York

19 11101. I want to go over a couple of ground

20 rules before we begin the questions. Please

21 answer all questions verbally. No nods of the

22 head or shaking of head, because the court

23 reporter is only taking down your verbal

24 testimony today. In addition to that, because

25 this is virtual there maybe a little bit of a

1 FRED S. LEE 5
2 lag. If you could wait a second or two prior to
3 answering my question I would appreciate that so
4 we make sure everybody is caught up; do you
5 understand?

6 A Yes, sure. Thank you.

7 Q If you need a break at any time
8 during the deposition you are free to ask for
9 one. The only request that I make is that if I
10 have a question pending that you answer that
11 question prior to requesting a break. If you
12 need speak to your attorney, I know that you are
13 at his office. If you need speak to him at any
14 time you can always ask for a break to speak to
15 him off-the-record, or whatever you need to do.
16 At the same time, I ask that you answer any open
17 pending question prior to requesting a break to
18 do so. I just ask that you don't guess. If I
19 ask for something that can reasonably estimate
20 that is okay. A perfectly acceptable answer is
21 that you don't remember or that you are unsure.
22 We are not trying to trick you today. We are
23 just trying on get a nice clear record for the
24 remainder of the case. If you don't know an
25 answer tell me that you don't know and we will

1 FRED S. LEE 6

2 move on, and that is perfectly okay.

3 A Okay.

4 Q Do you understand these instructions
5 as I have given them to you?

6 A Yes, sure.

7 Q Great. One last thing. Can we
8 agree that when I say the premises I am referring
9 to the property located apartment 39-11 27th
10 Street in long island City, New York?

11 A Yes.

12 Q If, at any time, you don't
13 understand something or you would like me to
14 rephrase something let me know and I will be
15 happy to do so.

16 A Okay.

17 Q State your full name?

18 A Fred S. Lee.

19 Q The address that you just gave to
20 the court reporter, is that your primary
21 residence?

22 A It is mine, yes.

23 Q Have you taken any medications or
24 other drugs that the past 24 hours that may
25 impact your ability to testify today?

1 FRED S. LEE 7

2 A I don't think so.

3 Q What is your current occupation?

4 A Retired banker.

5 Q Congratulations. How long have you
6 been retired?

7 A About ten years, yes.

8 Q Great. Now, these next couple of
9 questions I ask of everybody. I don't mean any
10 offense by them. Have you ever filed for
11 bankruptcy?

12 A No, sir.

13 Q Have you ever been convicted of a
14 crime?

15 A Not at all.

16 Q Have you ever given a deposition
17 before?

18 A No.

19 Q Have you ever testified in court
20 before?

21 A No.

22 Q Did you review any documents either
23 electronically or in paper form prior to today's
24 deposition?

25 A Not all of them.

1 FRED S. LEE 8

2 Q Could you briefly explain what you

3 reviewed?

4 A I reviewed my deed.

5 Q Did you review anything else or just

6 the deed?

7 A Just the deed.

8 Q Now, other than your attorney, did

9 you speak with anyone about today's deposition?

10 A No, sir.

11 Q I want to move onto asking you a

12 couple of questions about the premises. When did

13 you purchase the premises?

14 A July 2013.

15 Q Why did you purchase the premises?

16 A You said why?

17 Q Yes. For what purpose?

18 A For the investment.

19 Q Did you use a relator to purchase

20 the premises?

21 A Yes.

22 Q Do you recall the relator's name?

23 A I could not hear you.

24 Q Do you recall the relator's name?

25 A No, I don't recall.

1 FRED S. LEE 9

2 Q Prior to purchasing the premises,
3 did you review any apartments?

4 A Only the purpose of retirement, I
5 don't know.

6 Q Did you like review a listing or
7 like a relator's one-page sheet describing the
8 property prior to purchasing it?

9 A I cannot recall.

10 Q Okay. As you were purchasing the
11 premises, how was it described to you?

12 A It is a two-family house.

13 Q Did you do a walk through inspection
14 of the premises prior to closing on it?

15 A Yes, sir.

16 Q Now, I am going to ask you to
17 describe certain aspects of it. How many stories
18 is the premises?

19 A It is a two-story building with a
20 finished basement.

21 Q What is on the second story?

22 A The second story is a two-bedroom
23 apartment.

24 Q How many bathrooms are on the second
25 story?

1 FRED S. LEE 10

2 A One bathroom.

3 Q Is there a kitchen on the second
4 story?

5 A Yes, sir.

6 Q What is on the first story of the
7 premises?

8 A Would you please tell me the
9 question? The first floor?

10 Q What is on the first floor?

11 A The first floor apartment.

12 Q How many bedrooms is that apartment?

13 A Two bedrooms.

14 Q How many bathrooms?

15 A One bathroom.

16 Q Is there a kitchen on the
17 first-story apartment?

18 A Yes, sir.

19 Q What is in the basement?

20 A The basement a finished basement.

21 Q Are there like separate rooms or is
22 it just one large space?

23 A It is a partition there.

24 Q Is there a bathroom in the basement?

25 A Yes.

1 FRED S. LEE 11

2 Q Is this a full bath or just a
3 toilet?

4 A And a shower.

5 Q Now, since you have purchased the
6 premises in July of 2013, have you made any
7 changes to the premises, and by changes I mean
8 layout changes?

9 A No, sir. Not at all. I didn't
10 change anything.

11 Q Okay. I want to jump to speaking
12 about the fire loss that is the basis for your
13 insurance claim. Was there a fire at the
14 premises on March 2nd of 2020?

15 A Yes, sir.

16 Q When did you become aware of the
17 March 2nd of 2020 fire?

18 A I arrived over there to pick up my
19 mail, and I can smell something. I knocked on
20 the door on the first floor and nothing. Then I
21 go up to the second floor and the smell is
22 coming. When I tried to open I cannot open. I
23 called immediately 911.

24 Q With regard to making an insurance
25 claim for fire damage, who did you notify first?

1 FRED S. LEE 12

2 A I called the insurance agent.

3 Q What is the name of the insurance
4 agent that you called?

5 A Jin Mil Kim.

6 Q Mr. Kim, does he work at an
7 insurance agency?

8 A Yes.

9 Q Do you know the name of the agency?

10 A It is a Pro Insurance Company, or
11 something like that.

12 Q Now you want to talk about insurance
13 for the premises. How did you go about selecting
14 insurance for the premises?

15 MR. AGULNICK: Note my objection to
16 the form. Are you talking about when he
17 originally purchased the property or this policy
18 with Liberty Mutual?

19 MR. ENGLERT: I will rephrase it.

20 Q For the policy at issue, how did you
21 go about selecting insurance for the premises?

22 A When Iu purchased? That is the time
23 that you are talking about now, right?

24 Q Yes.

25 A Mutual Union you are talking now?

1 FRED S. LEE 13

2 Q Yes.

3 MR. AGULNICK: Correct.

4 A I called Jin Mil Kim telephone
5 directory, and then I found out.

6 Q So, is it fair to say that Mr. Kim
7 selected the insurance company based on your
8 request to him for an insurance policy for the
9 premises?

10 A Correct.

11 Q How long had you been working with
12 Mr. Kim's insurance company?

13 A That was the first time.

14 Q By the first time, what do you mean
15 by that?

16 A When I purchased it through him that
17 is when he first done the transaction to me.

18 Q Do you remember what year that was?

19 A I cannot recall, sorry.

20 Q Okay. When you applied for an
21 insurance policy, do you recall having to give
22 the insurance agent or broker information about
23 the premises?

24 A I don't understand you. Would you
25 please say that again? I couldn't hear you.

1 FRED S. LEE 14

2 Q When you applied for insurance for
3 the premises, do you recall having to give your
4 agent or broker the information about the
5 premises?

6 A Not at all.

7 Q Do you recall ever having to tell
8 the agent how many or what the premises was
9 comprised of like how many floors it was?

10 A He asked me how many family.

11 Q Okay. Did the broker or agent ever
12 come to the premises and physically inspect it?

13 A No, sir.

14 Q Did you know what I mean the broker?

15 A I am sorry. You are asking the
16 broker, the insurance broker?

17 Q Yes, correct. Did the insurance
18 broker ever ask for photographs of the premises?

19 A No, sir.

20 Q I would like to introduce an
21 exhibit.

22 MR. ENGLERT: I would like to share
23 my screen. Can we bring up the document with
24 Union Mutual Fire Insurance Company on the top?

25 MR. AGULNICK: Yes.

1 FRED S. LEE 15

2 Q All right. Mr. Lee, don't read it
3 out loud, but can you see everything on that
4 page?

5 A Yes, I can see that.

6 Q It is legible to you is what I am
7 getting at?

8 A Yes.

9 Q Have you ever seen this document
10 before?

11 A Yes.

12 Q What is the document?

13 MR. AGULNICK: Can you scroll down
14 to see the full document that you are referring
15 to?

16 MR. ENGLERT: Yes.

17 MR. AGULNICK: You have a
18 ninety-eight-page PDF, and you are showing him the
19 first page where it says insurance quote.

20 MR. ENGLERT: My question is going
21 to be confined about the first sixty-three pages.
22 Let him read the first six pages and then go from
23 there, is that okay?

24 MR. AGULNICK: Yes.

25 Q Mr. Lee, just take a look at this

1 FRED S. LEE 16

2 page and once you are done let me know and I will
3 scroll to the next page. If you need me to zoom
4 in or out, please let me know.

5 A Make it bigger.

6 Q How is that?

7 A A little bit more, please. Thank
8 you.

9 Q Let me know when you need me to
10 scroll down.

11 A Yes.

12 Q I am going to stop here. Like I
13 said, your attorney will get a full copy of this.
14 I will represent to you that is a full copy of
15 your initial application for insurance with Union
16 Mutual identified by policy 314PK49300-01. You
17 will be able to have a full document. I will not
18 ask any questions about the actual coverages. If
19 I will make sure that you have a chance to
20 completely review it before Iu ask you a
21 questions about it.

22 A Okay.

23 Q Did you fill out an application for
24 insurance independently?

25 A I cannot recall.

1 FRED S. LEE 17

2 Q Did you provide any information to
3 an insurance agent or broker in order to fill out
4 an application for insurance for the premises on
5 your behalf?

6 A I cannot recall. I cannot remember.

7 Q Okay. I would like to focus on page
8 four of this document. I am going to scroll down
9 to page four.

10 A Okay.

11 Q Can you see my cursor?

12 A Can you move around, please. Yes.

13 Q The question right next to my curse
14 is, could you read that question out loud?

15 A "How many apartment units are
16 there?" Two. The answer would be two.

17 Q The answer would be two?

18 A Yes.

19 Q Did that response of two apartment
20 units accurately represent the number of
21 apartment units at the premises on June 27th of
22 2017?

23 A Yes.

24 Q Now, moving away from the document.
25 On June 27th of 2017, what was the layout of the

1 FRED S. LEE 18

2 second floor of the premises?

3 A The second floor apartment.

4 Q On that same date, what was the
5 layout of the first floor of the premises?

6 A Yes, the same.

7 Q On June 27th of 2017, what was the
8 layout of the basement of the premises?

9 A You can see the pictures.

10 Q I just want to know what you recall.
11 If don't recall the layout of the basement as of
12 that date let me know and that is fine.

13 MR. AGULNICK: Objection to the
14 form. He testified that he didn't change
15 anything. You can answer if you understand his
16 question.

17 Q I will ask it again. After June
18 27th of 2017, did any representative of Union
19 Mutual inspect the premises?

20 A I think so.

21 Q Were you present for that
22 inspection?

23 A I think the insurance inspector they
24 took my picture over there.

25 Q Right.

1 FRED S. LEE 19

2 A And we talk.

3 Q My question was, were you at the
4 premises when the inspector was there?

5 A Yes, sir.

6 Q Did you, for lack of a better term,
7 shadow the inspector as he walked around the
8 premises?

9 A Would you please repeat again.

10 Q Yes. When the inspector from Union
11 Mutual was at the premises, did you follow him
12 around or shadow him as he inspected the
13 premises?

14 A I guess so, yes.

15 Q Do you recall what portions of the
16 premises he inspected?

17 A He walked through and then took a
18 picture.

19 Q Okay. Did he go into the first
20 floor apartment?

21 A I cannot remember.

22 Q Did he go into the second floor
23 apartment?

24 A I cannot remember.

25 Q Did he go into the basement?

1 FRED S. LEE 20

2 A Yes, he did.

3 Q Did you make any physical notes or
4 take any photographs during the inspection for
5 yourself?

6 A I think he took pictures.

7 Q Right. Did you take any pictures or
8 any photos for yourself?

9 A No.

10 Q All right. I would like to
11 introduce our second exhibit. It looks very
12 similar, but I promise it is something different.

13 MR. ENGLERT: We will like to have
14 this marked as Defendant's B. The prior one was
15 Defendant's A.

16 Q Do you want me to zoom out?

17 A It is okay.

18 Q I am going to do the same thing and
19 scroll through the pages that are going to be
20 used in my questions. Read what is on the screen
21 and then let me know when you are okay for me to
22 scroll through again like last time.

23 A Thank you.

24 Q That is the last page. Going back
25 to the first page of the document, do you

1 FRED S. LEE 21

2 recognize this document?

3 A It is a copy of the Union Mutual
4 Fire Insurance sent to me. The same thing, the
5 application.

6 Q I don't know what Union Mutual sent
7 to you. If you don't recall seeing this document
8 before, please let me know.

9 MR. AGULNICK: Don't guess.

10 A I cannot recall.

11 Q Okay. If I represented to you that
12 this was a renewal application for your Union
13 Mutual commercial package policy for the
14 premises, would you have any reason to dispute
15 that?

16 MR. AGULNICK: Objection to the
17 form. He says that he does not recall. Over my
18 objection he can answer.

19 A Would you please repeat your
20 question again.

21 Q Would you have any reason to dispute
22 that this is a renewal application for commercial
23 insurance submitted in relation to a Union Mutual
24 Insurance Policy?

25 MR. AGULNICK: Same objection. You

1 FRED S. LEE 22

2 can answer.

3 A I cannot remember.

4 Q Okay.

5 MR. AGULNICK: For the record, we
6 generally would not have a reason to dispute a
7 representation that you made to us. He can only
8 answer what he knows.

9 Q Mr. Lee, this document is titled
10 application for commercial insurance. The
11 address under risk location where my cursor is on
12 the document right now, 37-11 27th Street, is
13 that the same address as the premises?

14 A Yes, correct.

15 Q Now I am going to go to page 2 of
16 the document, and specifically the second
17 question where my cursor is, can you read the
18 question allowed and then read the answer?

19 A "How many apartments unit are there?
20 Two." That is correct.

21 Q To the best of your knowledge, that
22 accurately represented the number of apartment
23 units at the premises on May 21st of 2018?

24 A Correct.

25 Q Okay. Now I want to scroll down to

1 FRED S. LEE 23

2 the last page I showed you. I believe it is page
3 six. The title of this page, could you read the
4 title of the page underneath the company header?

5 A "Renewal Policy Application
6 Signature Page."

7 Q Did you read this page as I was
8 scrolling through the document?

9 A Yes.

10 Q Do you understand that this page is
11 a certification page for a renewal application
12 for commercial insurance?

13 A Yes.

14 Q Do you understand that by whoever
15 signed this page and that is information in the
16 application that is attached to is true and
17 correct?

18 MR. AGULNICK: Note my objection to
19 the extent that you are asking the witness to call
20 for a legal conclusion, which is he is not
21 qualified to make. Over the objection he can
22 answer, if he understands.

23 A I think renewal application. I
24 don't think I signed from my memory.

25 Q So, let me ask a couple of questions

1 FRED S. LEE 24

2 about your relationship with your insurance
3 broker. When your policy of insurance for the
4 premises is about to expire, would your insurance
5 broker contact you prior to the expiration?

6 A Yes, correct.

7 Q Would your broker ask you whether or
8 not you wanted to renew your current coverage?

9 A Correct.

10 Q Would your broker ask for any
11 additional information about the premises?

12 A I didn't get that question from the
13 insurance agent at any time.

14 Q When discussing the renewal with
15 your broker, did you provide any additional
16 information?

17 A No, sir.

18 Q Now we are going to go through the
19 same thing with the next exhibit.

20 MR. ENGLERT: This exhibit will be
21 Defendant's exhibit C.

22 Q We are going to go through the same
23 thing. I will scroll down when you tell me to.
24 I would like you to review certain pages of this
25 document.

1 FRED S. LEE 25

2 A Okay.

3 MR. ENGLERT: I am going to skip
4 this last page, because it is inconsequential to
5 this deposition.

6 Q That is the last page that we are
7 going to discuss. So, we will represent that
8 this is a renewal application for commercial
9 insurance for the premises. First I want to go
10 back to page six.

11 A Okay.

12 Q Could you read the title of this
13 page?

14 A "Renewal Policy Application
15 Signature Page."

16 Q What is the date?

17 A May 20th of 2019.

18 Q Could you just read the first
19 sentence?

20 A "I hereby certify that the
21 information provided in this application is true
22 and that I have read and understand the
23 provisions below."

24 Q Thank you. Now, do you see my
25 cursor?

1 FRED S. LEE 26

2 A Would you please move around? I
3 could not see. Yes, I see it.

4 Q All right. Could you read from
5 where my cursor is to the end of the paragraph.

6 A "I agree that signing these
7 documents with my electronic signature has the
8 same validity and affect as signing these
9 documents by my hand. I understand and agree
10 that by making a premium payment or by
11 authorizing my insurance agent to do so, I am
12 signing these documents and submitted them to
13 Round Hill Express, LLC, with the intent to
14 induce them to issue me a policy of insurance. I
15 understand that these statements form the basis
16 upon which this policy of insurance will be
17 issued in the name of Union Mutual Fire Insurance
18 Company and any subsequent denial by me of this
19 electronic signature will render any such policy
20 of insurance void and limit their liability to me
21 to the return of any premiums received by them."

22 Q All right. At the bottom of that
23 electronic signature page, could you read the
24 name next to the text electronic signature of
25 applicant, whose name is that?

1 FRED S. LEE 27

2 A Fred Lee.

3 Q Do you recognize the numbers next to
4 the text electronic signature security digits?

5 A No.

6 Q I want to go back to what has been
7 marked as Exhibit B. We are going to look at the
8 electronic signature page again. Could you read
9 the date under Renewal Policy Application
10 Signature Page?

11 A July 8th of 2018.

12 Q I am sorry. The date under the
13 title of the page?

14 A May 21st of 2018.

15 Q All right. Next to electronic
16 signature applicant, whose name is presented
17 there?

18 A Fred Lee.

19 Q Going back to Exhibit A, do you need
20 me to zoom in at all?

21 A Please. Okay.

22 Q How is that?

23 A Okay.

24 Q Could you read whose name appears
25 next to electronic signature of applicant?

1 FRED S. LEE 28

2 A Fred Lee.

3 Q All right. Going back to Exhibit C,
4 and I am going to scroll to page two of the
5 exhibit, could you read the second question after
6 the break in the page?

7 A How many apartment units are there
8 in two?

9 Q The date of this application is May
10 20th of 2019, does that answer accurately
11 represent the number of apartment units at the
12 premises on May 20th of 2019?

13 A The same thing.

14 Q All right. So now I want to move to
15 after the March 2nd of 2020 fire. I am going to
16 put up some photographs.

17 MR. ENGLERT: We will have this one
18 marked as Defendant's Exhibit C.

19 Q I am going to stop sharing, because
20 we are not going to talk about these just yet.
21 After you presented a claim to Union Mutual,
22 could you explain what happened?

23 A What happened you mean?

24 Q I will rephrase. After you
25 presented a claim to Union Mutual, did they

1 FRED S. LEE 29

2 contact you in any way or a representative of
3 Union Mutual?

4 A Union Mutual never contacted us.
5 Just the agent.

6 Q Say that again?

7 A I just communicate with the agent.

8 Q Did a representative from Union
9 Mutual ever come to inspect the premises after
10 the March 2nd of 2020 fire?

11 A I think so, yes.

12 Q Now, I am going to share what we
13 will have marked as Defendant's exhibit D,
14 Beltrani Consultants, Inc. Mr. Lee, can you see a
15 document that has the Beltrani Consultants, Inc.
16 on top of it?

17 A Yes, I can see that.

18 Q Great. I am just going to scroll
19 out one. Now, Mr. Lee, we will represent to you
20 that these are photographs from an inspection.
21 The first photograph that you can see right now,
22 does that accurately represent the premises?

23 A Yes.

24 MR. ENGLERT: Should I scroll
25 through the photographs before I discuss them?

1 FRED S. LEE 30

2 MR. AGULNICK: Yes, if you don't
3 mind.

4 MR. ENGLERT: No problem.

5 Q Once you had a chance to look at
6 each photograph let me know and I will scroll to
7 the next one, okay?

8 A Okay.

9 Q After looking through those photos,
10 does or do those photographs accurately represent
11 the interior of the premises on March 4th of 2020?

12 A Somebody took a picture, right?

13 Q Right. What I am asking is, do
14 those photographs accurately represent what the
15 inside of the premises looked like on March 4th
16 of 2020?

17 A Yes.

18 Q I would like to focus first on one
19 specific photo. Just one specific photo. This
20 photo right here, do you see the photo marked
21 with photo identification 15405-021?

22 A Yes, I can see that.

23 Q The date is March 4th of 2020?

24 A Yes.

25 Q In the description is basement

1 FRED S. LEE 31

2 kitchen?

3 A Yes.

4 Q Does this accurately represent a
5 part of the basement?

6 MR. AGULNICK: Objection to the
7 form.

8 Q I will rephrase that. Is there any
9 reason to dispute that this is a photograph of
10 the basement on March 4th of 2020?

11 MR. AGULNICK: Objection to the
12 form. You can answer.

13 A Okay. All on one wall there is a
14 stove over there not connecting.

15 Q That is what that portion of the
16 basement looked like on March 4th of 2020?

17 A Yes.

18 Q Is it correct that on that there is
19 a sink in the photograph?

20 A Yes.

21 Q There is some cabinetry; is that
22 correct?

23 A Yes.

24 Q There is what appears to be a vent
25 hood?

1 FRED S. LEE 32

2 A No vent.

3 Q How would you describe what is above
4 the oven in the photograph?

5 A This is the oven just below the
6 cabinet.

7 Q So, do you see my cursor?

8 A Yes.

9 Q What is my cursor on, what would you
10 call that?

11 A It is a cabinet.

12 Q Below the cabinet I mean?

13 A Can you make enlargement?

14 Q Yes. How that is?

15 A This one is just.

16 Q Okay. How does an individual enter
17 the basement of the premises?

18 A Would you please in detail ask the
19 question again to me, please.

20 Q Yes. Is there a entrance and exit
21 to the basement of the premises directly from the
22 outdoors?

23 A You mean the front entrance and the
24 rear entrance?

25 Q Well, what I mean is there a door

1 FRED S. LEE 33

2 that goes directly into the basement?

3 A Yes, from the rear backyard they can
4 go through boiler room and go to the, you know,
5 to get to the meter. Gas and electric meter.
6 They can get that through the finished basement.

7 Q Would an individual have to walk
8 through a portion of the basement prior to
9 getting to the electric meter?

10 MR. AGULNICK: Objection to the
11 form. If he walks through where? You only asked
12 about one entrance to the basement.

13 Q The rear entrance.

14 A In order to get to the meter reading
15 you walk in from the end of the finished
16 basement.

17 Q The entrance to the outdoors is at
18 the back of the premises; is that correct?

19 A The back entrance door to the
20 backyard.

21 Q Okay. The electric and gas meter at
22 the premises, where in the basement is that
23 located; is it located in the front of the
24 basement or the back?

25 MR. AGULNICK: Objection to the

1 FRED S. LEE 34

2 form. You asked about two three different items.

3 Q I will break it down. Is the gas
4 meter located in the front of the basement?

5 A The front of a building basement.

6 Q Okay. That answers the question
7 perfectly?

8 MR. AGULNICK: You want to know if
9 somebody saw the gas meter they had to walk
10 through the entire basement and you have to be
11 deaf, blind and dumb not observe the entirety of
12 the basement in doing so.

13 MR. ENGLERT: Yes.

14 Q Other than the rear entrance, is
15 there another entrance into the basement?

16 A Yes, from the front hallway.

17 Q That front entrance, do you have to
18 go through an apartment or is it through a common
19 hallway?

20 A There is one door going to the
21 basement. The finished basement.

22 Q Right. Is that door in the first
23 floor apartment?

24 A No, hallway the right side.

25 Q Okay. So, is it correct to say that

1 FRED S. LEE 35

2 when you enter the premises from the outside on
3 the front side of the premises you enter into a
4 common hallway?

5 A Not directly to go through the
6 hallway.

7 Q Okay. Now I want to put up our
8 final exhibit. We are going to mark it as
9 Exhibits E. This will be Defendant's exhibit E.
10 Mr. Lee, is it correct that a representative from
11 Union Mutual inspected the premises a second time
12 after the fire loss?

13 A I don't know.

14 Q Okay. So, what we have in front of
15 you are photographs from an inspection on April
16 15th of 2020. Now, this first photograph, let's
17 scroll through the photographs and the whole
18 document. Then I will ask some specific
19 questions.

20 A Yes.

21 Q Let me know when you want me to
22 scroll down to the next photograph?

23 A Okay.

24 Q That is the last photograph going
25 back to the first photograph, does that

1 FRED S. LEE 36

2 accurately depict the premises?

3 A Yes.

4 Q So after March 4th of 2020, did you
5 make any changes to the premises aside from
6 remediation from the fire?

7 A No.

8 Q Focusing on this photograph, first
9 of all, where in the premises was this photo
10 taken?

11 A This I need to say the description
12 says basement kitchen.

13 Q Ignoring the description, where was
14 that taken?

15 MR. AGULNICK: Objection to the
16 form. Is that in the basement, Mr. Lee?

17 THE WITNESS: Yes, it is the
18 finished basement, correct.

19 Q Can you just describe the furnishing
20 that you can see in this photograph?

21 A Sink, cabinet, and a lot of books.

22 Q This next photograph, do you
23 recognize where this photo what is depicted in
24 this photograph?

25 A The finished basement.

1 FRED S. LEE 37

2 Q All right. Is it correct to say
3 that that photograph is depicting a bathroom in
4 the finished basement?

5 A I think so, yes.

6 Q Do you recognize what is being
7 depicted in this photograph?

8 A In the basement the gas reading
9 area.

10 Q Could you describe whether this is
11 at the part of the basement closest to 27th
12 Street or closest to the rear of the premises?

13 A Close to 27th Street.

14 Q Okay.

15 MR. ENGLERT: That is it for
16 exhibits.

17 Q I want to discuss your leasing of
18 the premises. As you said, you purchased this
19 property as an investment property; is that
20 correct?

21 A Yes, correct.

22 Q Now since 2013, have you always
23 leased the premises out?

24 A Yes.

25 Q Okay. Now, specifically if you can

1 FRED S. LEE 38

2 recall back to 2017, do you recall how many
3 tenants you had at the premises in 2017?

4 A Two.

5 Q Was that two individuals or like two
6 families?

7 A What do you mean? The tenant you
8 are talking now?

9 Q Correct. This is in 2017. If you
10 don't recall that is perfectly acceptable.

11 MR. AGULNICK: Objection to the
12 form. Are you asking who he leased it to, how
13 many leases he had, or how many individual people
14 were part of each lease?

15 MR. ENGLERT: How many groups
16 essentially.

17 A The first floor it is a two person.
18 The second floor one person.

19 MR. AGULNICK: Only two leases; is
20 that correct?

21 THE WITNESS: Yes.

22 Q All right. In 2018, how many
23 tenants did you have in 2018?

24 A The same.

25 Q Did the tenants change at all or

1 FRED S. LEE 39

2 were they the same from the previous year?

3 A The same tenants.

4 Q Now, in 2019, how many tenants?

5 A The same.

6 Q Okay. I believe your attorney posed
7 this question. I want to confirm, because I
8 don't think that I got the answer. In 2017, how
9 many leases did you have for the premises?

10 A Two leases.

11 Q How many leases in 2018?

12 A I think the same.

13 Q How many leases in 2019?

14 A Two leases.

15 MR. ENGLERT: To the extent that we
16 have not requested or don't have the leases, we
17 will make a formal request in writing for copies
18 of the leases if they exist.

19 MR. AGULNICK: I am pretty sure that
20 we provided the leases. We will take a look.

21 MR. ENGLERT: I will double-check,
22 as well.

23 MR. AGULNICK: There are only two
24 three leases, so we are clear.

25 Q The leases that you issued at

1 FRED S. LEE 40

2 premises, did you recall what the term was of
3 each lease?

4 A One-year lease. When you see the
5 original lease you can find out what you need. I
6 don't want to misleads you.

7 Q I don't think that you are
8 misleading, at all. How do your tenants pay rent
9 to you?

10 A By check.

11 Q Okay. A couple of final questions.
12 Your wife is also a party to this case and just
13 want to essentially to prevent bringing her in
14 for a deposition. Did she ever negotiate
15 insurance contracts for the premises?

16 A Not at all.

17 Q Would she have given any information
18 to your insurance broker related to the premises?

19 A No.

20 Q Would she have ever negotiated
21 renovations or contracting at the premises?

22 A She is totally independent and out
23 of the property. She does not know anything.

24 Q Okay?

25 MR. ENGLERT: I think I am done.

1 FRED S. LEE 41

2 Thank you very much.

3 EXAMINATION BY MR. AGULNICK:

4 Q I just have a few questions. I want
5 to mark the Inspection Report. Give me a minute
6 and I will pull it up. Mr. Lee, how are you,
7 sir?

8 A Good.

9 Q I am showing you what has been
10 marked Plaintiff's Exhibit 1. I will tell you
11 that this is a report that was provided by Union
12 Mutual in connection with the inspection of the
13 premises on July 11th of 2017. I will show you
14 the first photograph on the first page. It is
15 Bates stamp on 00361. There is a very handsome
16 man in the first photograph, do you see that man?

17 A It is me.

18 Q That handsome is you; is that
19 correct?

20 A Yes, correct. Who took this
21 picture?

22 Q That was purportedly taken by the
23 inspector on July 11th of 2017. I am going to
24 scroll down to page three of five. There appears
25 to be a set of stairs, do you see those?

1 FRED S. LEE 42

2 A Yes.

3 Q Are those interior stairs meaning
4 inside the premises?

5 A Yes, correct.

6 Q I am going to scroll down to page
7 four of five, do you recognize those two
8 photographs?

9 A Yes, sir.

10 Q The top photographs appears to be
11 electrical meters; is that correct?

12 A Correct.

13 Q Those electrical meters are located
14 inside the basement of the premises?

15 A Correct.

16 Q The bottom photograph appears to be
17 gas meters, do you see that?

18 A Yes, I can see that.

19 Q Are those the gas meters inside the
20 basement of the premises?

21 A Correct. All of them is inside the
22 basements.

23 Q All right. I will go to the bottom
24 photo, do you recognize what is in that photo?

25 A Yes.

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Q What is that?

A A boiler.

Q Okay.

A And a hot water tank.

Q Where is that located?

A In the basement.

Q In July of 2017, did you walk
through the basement with the inspector?

A Yes.

MR. AGULNICK: Mr. Lee, thank you,
sir. I have nothing further. Thank you for your
time.

(Whereupon, the proceedings were
concluded at 11:32 a.m.)

FRED S. LEE

Subscribed and sworn to
before me this ____ day
of _____, 2021.

NOTARY PUBLIC

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CERTIFICATION

I, KAREN MCCONNELL, hereby certify
that the within was held before me on the 27th
day of April, 2021.

That the testimony was taken
stenographically by myself.

That the within transcript is a true
and accurate record.

That I am not connected by blood or
marriage with any of the parties. I am not
interested directly or indirectly in the matter in
controversy.

IN WITNESS WHEREOF, I have hereunto
set my hand this 24th day of May, 2021.


KAREN MCCONNELL

April 27, 2021

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